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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,429	03/21/2001	Margot Mayer-Proschel	UT-0031	3502
7590 05/14/2004			EXAMINER	
Licata & Tyrrell P.C. 66 E. Main Street Marlton, NJ 08053			HAYES, ROBERT CLINTON	
			ART UNIT	PAPER NUMBER
			1647	

DATE MAILED: 05/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/813,429

Applicant(s)

MAYER-PROSCHEL ET AL.

Examiner

Robert C. Hayes, Ph.D.

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

1. The amendment filed 3/01/04 has been entered.
2. The rejection of claim 1 under 35 U.S.C. 112, second paragraph, as being indefinite and incomplete is withdrawn due to the amendment of the claim.
3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required for Patrick Tresco. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: the signature of Patrick Tresco was not dated.
4. Applicants' arguments filed 3/01/04 have been considered but were not found persuasive.
5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claim 1 stands rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a method of isolating human neuroepithelial precursor cells from neural tissue (e.g., the neural tube) from human embryos after first culturing adherent cultures on fibronectin/ laminin and then after using structurally known and definable antibodies to A2B5,

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NG2 and eNCAM, does not reasonably provide enablement for a method using any generic “human fetal cells” committed to a different tissue fate, or a method using antibodies to structurally and functionally uncharacterized epitopes/markers (i.e., NG2). The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims, for the reasons made of record in Paper No: 20031126 (mailed 12/03/03), and as follows.

Characterization and availability of antibodies to NG2 is acknowledged; thereby, obviating this part of the rejection. However, because the claims are still not limited to “human fetal neural tissue”, Applicants’ arguments currently remain not persuasive, for the reasons previously made of record.

It is suggested that amending claim 1 to “a method for isolating human neuroepithelial precursor cells from human fetal neural tissue...” should obviate this rejection and place the application in condition for allowance.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

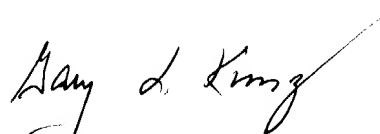
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Robert Hayes whose telephone number is (571) 272-0885. The examiner can normally be reached on Monday through Thursday, and alternate Fridays from 8:30 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached on (571) 272-0887. The fax phone number for this Group is (703) 308-4242.



Robert C. Hayes, Ph.D.  
May 6, 2004



**GARY KUNZ**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**